

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

140 19th Street NW
East Wenatchee, WAS 98802-4109

BEFORE THE DOUGLAS COUNTY HEARING EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-15-02)	DECISION AND
Pipkin)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on October 15, 2015, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. The applicant is Mike Beem of Pipkin Construction, P.O. Box 3181 Wenatchee, WA 98807.
2. The property owner is Andy Gale, 328 N. Perry Ave., East Wenatchee, WA 98802.
3. General Description: A conditional use permit (CUP) application for an inert waste landfill to legally dispose of off-site construction waste and to create approximately 4.5 more acres of orchard land at the southern terminus of S. Ward Ave, East Wenatchee, WA 98802.
4. The subject property is approximately 20 acres in size and is zone Commercial Agriculture 10 (AC-10) under the Douglas County Code.
5. The subject property is described as being located within the NE Quarter of Section 22, Township 22N, Range 21E, W.M., Douglas County, Washington.
6. The Douglas County Assessor's parcel numbers is: 22212210008.
7. The Comprehensive Plan Designation is Commercial Agriculture 10 (AC-10).
8. DCC 18.80 "Conditional Uses" establishes minimum review criteria for inert waste storage.
9. DCC 18.80.320 identifies that inert waste storage can be approved with a conditional use permit in the AC-10 zoning district.
10. The applicant has provided a Stormwater Drainage Report dated April, 2015.

11. The applicant has provided a Geologic Hazard Report dated April, 2015.
12. The applicant has provided responses to the WAC criteria for inert waste landfills dated June 2015.
13. Comments from reviewing agencies have been considered and addressed where appropriate.
14. Douglas County issued an environmental review Determination of Non-significance on September 29, 2015 in accordance with WAC 197-11-355 (Optional DNS).
15. The applicant entered into a Haul Route Agreement with the Douglas County Transportation Department on September 16, 2015.
16. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
17. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
18. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
19. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
20. An open record public hearing after due legal notice was held on October 15, 2015.
21. The entire Planning Staff file was admitted into the record at the public hearing.
22. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
23. Appearing and testifying on behalf of the applicant was Mike Beem. Mr. Beem testified that that he is an agent authorized to appear and speak on behalf of the property owner and the applicant. Mr. Beem testified that all of the proposed Conditions of Approval were acceptable. He testified that they estimate that there are 33,000 cubic yards of fill that will go into this inert waste location and that will have a 10 year life.
24. No member of the public appeared at the hearing.
25. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
26. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.

27. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
28. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
29. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use will not unreasonably interfere with allowable development or use of neighboring properties.
30. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
31. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
32. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As conditioned, the proposal is consistent with Douglas County Code 18.80.030 Conditional uses general evaluation criteria.
5. Public interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.
7. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
8. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
9. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
10. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Douglas County Code or the Comprehensive Plan.

11. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Application CUP2015-02 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials on file submitted on June 29, 2015 except as amended by the conditions herein.
3. Owners/operators shall be responsible to obtain and comply with any applicable federal, state, and local laws, and must obtain all necessary permits and approvals prior to operation.
4. The inert waste landfill shall be operated in accordance with the Plan of Operation submitted June 29, 2015 and on file with the County, except as may be amended. Amendments to the Plan of Operations shall be provided to Douglas County Land Service for approval and certification of compliance with the conditions of approval.
5. Ingress and Egress, and route maintenance to and from the site shall be consistent with the Haul Route Agreement administered by the Douglas County Transportation Department.
6. Within 90 Days of approval of CUP-15-02, dedication of right-of-way for the proposed 10th Street SE to Ward Avenue alignment along the western property boundary shall be provided. The property owner/applicant shall coordinate with the Transportation Department for assistance in preparing the appropriate dedication documents.
7. Right-of-way dedication shall include notation that vehicular access to the dedication shall be precluded until such time as the right-of-way is improved to an approved county standard. Use and access by the proponent for agricultural purposes shall be permitted until such time as the right-of-way is improved to a county standard.
8. The proponent shall address dust control within county right-of-way by applying a dust suppressant agent as necessary to control fugitive dust. The proponent shall coordinate with Douglas County Transportation Department for an approved agent and application schedule.
9. Activities affecting stormwater shall conform to Douglas County Code 15.36 – Grading and Excavation Standards, including conformance with Douglas County Code 20.34 and 20.36.

10. Pipkin Construction shall be the sole operator of the inert fill site.
11. Prior to commencing site preparation or fill operations onsite, written verification shall be submitted to the Douglas County Land Services from the Department of Ecology that an NPDES Construction Stormwater General Permit has been obtained or that the permit is not necessary.
12. In the event cultural sites or isolated finds are identified during operations, work in the immediate vicinity will be halted until the site or find can be evaluated by a qualified archaeologist and applicable state and tribal entities can be consulted.
13. At final closure, the site will be graded and seeded to ensure that excessive soil erosion does not occur.
14. If significant changes are made to the project, reevaluation of the Geologic Hazard Report should be completed to verify its continued validity.
15. The applicant shall raise all Greater Wenatchee Irrigation District (GWID) meters, drains, air valves or lines affected by adding fill. Raising of the equipment will be done as per GWID spec and will be done by a GWID authorized contractor or personnel at the property owner's expense.
16. The applicant shall contact GWID's engineer, RH2 Engineering, for sign-off on extra load from cover and/or equipment.
17. The applicant is responsible for compliance with applicable state regulations including but not limited to acquisition of the Department of Ecology, Construction Stormwater Permit, and registration of UIC facilities, prior to construction.

Dated this 21st day of October, 2015.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Any aggrieved party or agency of record may request a reconsideration of this Hearing Examiner's decision. Motions for reconsideration must be filed with the Department within ten (10) days from the date of issuance as defined by RCW 36.70C.040(4)(a). Unless otherwise provided, the filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiners decision to Superior Court. Motions for reconsideration are governed by Douglas County Code 2.13.150.

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW

36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.